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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/898,505	07/03/2001	Konrad Grob	GIS-3.2.026/4049	4008

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EXAMINER

JACKSON, ANDRE K

ART UNIT

PAPER NUMBER

2856

DATE MAILED: 07/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Applicati n No.

09/898,505

Applicant(s)

GROB ET AL.

Examiner

André K. Jackson

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication:
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

### DETAILED ACTION

1. The supplemental amendment filed on 06/16/03 has been entered and the finality of the rejection of the last Office action is withdrawn.

#### *Drawings*

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "6" has been used to designate both the chamber and liner on pages 5 and 9 respectively. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

#### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

4. Claims 16, 20 and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 16 recites the limitation "said restriction" in line 3 of the claim.

There is insufficient antecedent basis for this limitation in the claim.

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Regarding claim 20, Applicant is claiming that the upper part of the chamber is heated to a lower temperature. However, in the specification on page 5 it is written that the upper portion is cooled at least not heated. Clarification is needed.

Regarding claim 24, Applicant is claiming that the upper part of the chamber is heated to a lesser temperature than the lower portion. However, in the specification on page 5 it is written that the upper portion is cooled at least not heated. Clarification is needed.

### ***Claim Objections***

5. Claim 22 is objected to because of the following informalities:

Regarding claim 22, "then" should be --than--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-9, 10, 12, 13, 14, 16, 17-19 and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grob (Injection techniques in capillary GC) in view of Grob (WO 01/33209).

Regarding 1, Grob discloses "Injection techniques in capillary GC" teaches an elongated and constantly heated vaporization chamber (Pages 1009-1010); a syringe equipped with a needle configured to render vaporization of the sample liquid within the needle negligible (Pages 1009-1010; Figure 1a-1d), and further containing a means for stopping and vaporizing the sample liquid above the column entrance (Pages 1012-1013; Figure 4). A distance between the exit of the needle and a means for stopping and vaporizing the sample liquid above the column entrance is not disclosed by Grob (Injection techniques in capillary GC). However, since Grob (WO 01/33209) teaches in "Vaporization injector" that the column has no limits to its length. Therefore, it would be well within the purview of the skilled artisan to modify Grob (Injection techniques in capillary GC) to have the stop means at particular lengths according to the length of the column as suggested by Grob (WO 01/33209) since the column can have any suitable length according to what the user needs.

Regarding claim 2, a distance between the exit of the needle and a means for stopping and vaporizing the sample liquid above the column entrance is not disclosed by Grob (Injection techniques in capillary GC). However, Grob (WO 01/33209) teaches that the column has no limits to its

length. Therefore, it would be well within the purview of the skilled artisan to modify Grob (Injection techniques in capillary GC) to have the stop means at particular lengths according to the length of the column as suggested by Grob (WO 01/33209) since the column can have any suitable length according to what the user needs.

Regarding claim 3, Grob does not disclose a distance where the needle extends into the chamber of less than 30 mm. However, Grob (WO 01/33209) discloses where the needle extends into the chamber below 30 mm (Page 4). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Grob to include a distance where the needle extends into the chamber less than 30 mm as taught by Grob (WO 01/33209) since they are from the same field of endeavor.

Regarding claim 4, Grob (Injection techniques in capillary GC) does not disclose the diameter of the internal chamber of the needle. However, it is well within the purview of the skilled artisan to experiment with different diameters of needles to achieve various injection velocities.

Regarding claim 5, Grob (Injection techniques in capillary GC) discloses where the chamber is cooled (Page 1009).

Regarding claim 6, Grob does not disclose a thermal insulating material for the needle; however, it is well within the purview of the skilled

artisan to include this feature to keep the temperature of the need at a specific temperature.

Regarding claim 7, Grob does not disclose a thermal insulating material for the needle; however, it is well within the purview of the skilled artisan to include this feature to keep the temperature of the need at a specific temperature.

Regarding claims 8 and 9, Grob (Injection techniques in capillary GC) does not explicitly state the length of the vaporization chamber. However, Grob (WO 01/33209) teaches that the column has no limits to its length. Therefore, it would be well within the purview of the skilled artisan to modify Grob (Injection techniques in capillary GC) to have different lengths of the column as suggested by Grob (WO 01/33209) since the column can have any suitable length according to what the user needs.

Regarding claim 10, Grob (Injection techniques in capillary GC) does not disclose a coiled chamber. It is considered a design choice and well within the purview of the skilled artisan to alter the shape of the chamber. Having a coiled chamber would provide a longer length.

Regarding claim 12, Grob does not disclose the composition of the chamber, but it is well within the purview of the skilled artisan to use any material desired for the chamber therefore the artisan could use silcosteel for the chamber for its inert qualities.

Regarding claim 13, Grob (Injection techniques in capillary GC) discloses where a septum is mounted on the injector head (Column 1, line 21):

Regarding claim 14, Grob (Injection techniques in capillary GC) does not disclose where there is a restriction in the lower part containing the stop. However, Grob (WO 01/33209) discloses where there is a restriction in the lower part containing the stop (Page 5). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Grob (Injection techniques in capillary GC) to include where there is a restriction in the lower part containing the stop as taught by Grob (WO 01/33209) since this would cause a higher flow pressure.

Regarding claim 16, Grob (Injection techniques in capillary GC) does not disclose that the heating means for the vaporization chamber are provided operating at the vaporization temperature of the sample in correspondence to the restriction and at a lower temperature in the upper part of the chamber. However, Grob (WO 01/33209) discloses that the heating means for the vaporization chamber are provided operating at the vaporization temperature of the sample in correspondence to the restriction and at a lower temperature in the upper part of the chamber (Pages 4 and 5). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Grob (Injection techniques in capillary GC) to include the heating means for the vaporization chamber

are provided operating at the vaporization temperature of the sample in correspondence to the restriction and at a lower temperature in the upper part of the chamber as taught by Grob (WO 01/33209) since this would cause a higher flow pressure.

Regarding claim 17, Grob (Injection techniques in capillary GC) teaches an elongated and constantly heated vaporization chamber (Pages 1009-1010); a syringe equipped with a needle configured to render vaporization of the sample liquid within the needle negligible (Pages 1009-1010; Figure 1a-1d), and further containing a means for stopping and vaporizing the sample liquid above the column entrance (Pages 1012-1013; Figure 4). Grob does not disclose a distance between the exit of the needle and a means for stopping and vaporizing the sample liquid above the column entrance. However, Grob teaches that the column has no limits to its length. Therefore, it would be well within the purview of the skilled artisan to modify Grob (Injection techniques in capillary GC) to have the stop means at particular lengths according to the length of the column as suggested by Grob (WO 01/33209) since the column can have any suitable length according to what the user needs.

Regarding claim 18, Grob (Injection techniques in capillary GC) does not disclose a distance where the needle extends into the chamber of less than 30 mm. However, Grob (WO 01/33209) discloses where the needle extends into the chamber below 30 mm (Page 4). Therefore, it

would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Grob to include a distance where the needle extends into the chamber less than 30 mm as taught by Grob (WO 01/33209) since they are from the same field of endeavor.

Regarding claim 19, Grob (Injection techniques in capillary GC) discloses where the heating means for the vaporization chamber are provided to achieve a maximum heating effect to vaporize the entire sample towards the base of the chamber and lower temperature in the upper part of the chamber (Page 2 and 3).

Regarding 21, Grob (Injection techniques in capillary GC) discloses a syringe equipped with a needle where the sample liquid has not been vaporized (Pages 1009-1010; Figure 1a-1d); a means for heating at least part of the chamber and further containing a means for stopping and vaporizing the sample liquid above the column entrance (Pages 1012-1013; Figure 4). A distance between the exit of the needle and a means for stopping and vaporizing the sample liquid above the column entrance is not disclosed by Grob (Injection techniques in capillary GC). However, since Grob (WO 01/33209) teaches that the column has no limits to its length. Therefore, it would be well within the purview of the skilled artisan to modify Grob (Injection techniques in capillary GC) to have the stop means at particular lengths according to the length of the column as

suggested by Grob (WO 01/33209) since the column can have any suitable length according to what the user needs.

Regarding claim 22, Grob (Injection techniques in capillary GC) discloses a heating means for the elongated chamber arranged and configured to vaporize the sample towards the base of the chamber and provide an upper part of the chamber that is at a lower temperature than the base (Page 1010).

Regarding claim 23, Grob (Injection techniques in capillary GC) discloses heating at least a lower portion of the vaporization chamber to a temperature above a vaporization temperature of a sample to be analyzed; injecting the sample in proximity of an upper portion of the vaporization chamber and releasing the sample in form of a liquid band crossing the vaporization chamber at a speed; stopping the liquid band by stop means; and vaporizing the sample in a lower portion of the heated chamber (Page 1009).

8. Claims 11 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grob (Injection techniques in capillary GC) in view of Sasano et al.

Regarding claim 11, Grob et al. does not disclose where the chamber is made from metal. However, Sasano et al. discloses where the liner is made from metal (Column 2, line 68). Therefore, to make the

chamber is made from metal as taught by Sasano et al. since this would make it easier to heat or cool the chamber.

Regarding claim 15, Grob does not disclose where the restriction is connected to the upper part of the chamber by a funneled wall. However, Sasano et al. discloses where the restriction is connected to the upper part of the chamber by a funneled wall (Figure 4). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Grob to include where the restriction is connected to the upper part of the chamber by a funneled wall as taught by Sasano et al. since the funneled wall makes for an easier flow.

### ***Response to Arguments***

9. Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

The Examiner is confused. Applicant agrees on page 14 of the amendment that the teachings of Grob et al. and Sasano et al. **lead** to the subject matter of the amended claims, but goes on to argue how they differ from the Applicants invention.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE**

**FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

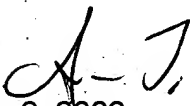
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to André K. Jackson whose telephone number is (703) 305-1522. The examiner can normally be reached on Mon.-Thurs. 7AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on (703) 305-4705. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1782.

A.J.   
July 2, 2003

HELEN KWOK  
PRIMARY EXAMINER

